Previous references.

1906-7
(S & D

File No. 279
Serial Nos. 1 to 3

Later references.
B. Act of 55 1-6 Srt 15/9/07
Aug 13 Sn 1-2 Srs 652-12

(19)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B. for March.

SUBJECT.

Continuation of the extraordinary pension sanctioned to the minor son of Police Serjeant Sivaprasad of Cuyeore City to his widow Krishna Baiy

From Krisnaswamy Per dy 10-10-06

Prays that the extraordinary pension of Rs 3-5-4 p
Sanctioned to her son Bhavani Prasad may be transferred
to her name

G. R. S. 58
2

To The comptroller whereby of Police no A. 7100-1 dy
22-307
Settles upon the petitioner the extraordinary

G. R. S. 11]

1906-07

GENERAL AND REVENUE SECRETARIAT

(II Sta)

NOTES.

File. No 279

FILE HEADING.

Petition of Krishna Bai widow of Sivaprasad late Lance Sergeant of the Mysore city Police

From

Krishna Boi

No. Dated 10-10-06 Received 25-10-06

Diary No. 1573	Enclos.	Spare Copies.	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that her son Bhavani prasad in whose name an entry pension was sanctd died two years before the receipt of the G.O. sanctioning the pension and prays that as she is in destitute circs ~~that~~ the pension sanctd in her son's name may be transfd to her name

NOTES AND ORDERS.

Sivaprasad, the petitioner's husband died of plague caught while in the execution of duty. At the time of his death (4-10-00) he left behind him, a son (Bhavani prasad)

NOTES—First sheet.

MGCPB—30,000—17-2-05.

Serial No.

7376

, a widow (the petitioner) and 2 daughters. An extraordinary pension of Rs 3-5-4 p.m. was sanctd ~~to~~ in the name of the eldest son, as per rules. The claim to pension commenced on the 4th Oct. 1900 and it was settled on 7th January 1904. At the time of commencement, the son was living and at that of settlement he was dead. (the son died on 3/11/02). An extry pension is allotted to the eldest surviving son ie the son surviving the father or the son who is alive at the time of his father's death and not the son or any other claimant alive at the time of issuing the order sanctioning the pension (Vide G. O No. H3422-3 Sta 180-05-2 d 29-11-05 and the camphlet's print in page 6 of the appx-note in Sta 180 of 05) So if the petitioner's claim be that the pension should be sanctd in her name, as at the time of sanctioning the pension, her son was dead,

Hag. W.

NOTE—Contn. sheet

GPB—50,000—23 10-05

Serial No.

it is untenable

2. If the petitioner prays that the pension drawn in the name of her son should be transferred to her name, the prayer is also untenable (Vide 403 (d) of the MSR).

Subd Jurdn.

DMB 17-11-06. Put up an Endorsement stating that her request is not admissible under the rules.

munk 21-11-06

Draft subd by 2nd Councillor.

DMB 21-11-06

munk 21-11-06

I entirely disagree in the above view

The widow is clearly & justly entitled to have the pension settled upon her

Please submit the case to the Dewan. I shall

GPB—50,000—23-10-05

Serial No.

be glad of the case which involves a question of principle can be brought up before a meeting of Council for discussion

The previous case quoted by the Asstt Secretary is exactly similar to the present one. and I cannot help expressing my conviction that it was decided on purely technical grounds

N N Mukherjee
25/4/06 2nd Councillor

Subject to Divn. fr orders as to whether the file may be circulated & brought up before Council -

25/4/06

3000 26/4/06

The file may be circulated & brought up before Council

Bo 4/4/06

GPB—50,000—23-10-05

Ademenon

Art 403(d) says "A pension is given to only one member; & no transfer of the pension to another member is permitted on its lapse either by the demise of the pensioner or for any other reason or — —

— — —

The names of the next of kin of the family should be entered in every case where a person — under Art. 401 (ii). (To the family of a person killed in the course of duty or —)

In this case there can be no left- or right-hand not completed ∴ there was no widow - The dead son was not a pensioner - The widow is entitled - This is a case of a poor mother doubly bereft & is thus deserving pension case

G.R.S. 12]

General and Revenue Secretariat. | File No. | of 190

Serial No.

Circulate -

Seen -

GPB—50,000—23 10·05

C. 1214.

GENERAL AND REVENUE SECRETARIAT.

Council matter.

Subject.

Prayer of Krishna Bai, widow of Sivaprasad, late Lance Sergeant, Mysore City Police, for the transfer to her own name of the extraordinary pension granted by Government in the name of her son, deceased at the time of the grant.

Circulated to Councillors.

By Order,

Secretary.

6th December *1906*

C 335 8-12-06

T. Ananda Row, Esquire, B.A.,
First Councillor.

Seen by the Councillor

K.P. Puttanna Chetty, Esquire,
Second Councillor.

Seen by the Councillor.

Extract from the Proceedings of the 156th *Meeting of the Council of His Highness the Maharaja, held at* Bangalore *on the* 28th January *1907*.

I. Subject.-

Prayer of Krishna Bai, widow of Sivaprasad, late Lance Sergeant, Mysore City Police, for the transfer to her name of the extraordinary pension granted by Government in the name of her son deceased at the time of the grant.

OPINION.

In this case, an extraordinary pension of Rs.3-5-4 per mensem, to have effect from the 5th October 1900, the date of Sivaprasad's death, was sanctioned in favour of his son Bhavani-prasad till he should be 18 years old. As a matter of fact, however, the son was not alive at the time of the passing of the order, viz., the 7th January 1904, he having died on the 3rd November 1902, leaving his mother, the petitioner, surviving him. The question is whether the pension can now be made out in the name of the petitioner instead of in that of her deceased son.

The Article of the Mysore Service Regulations applicable is 403 (a), under which a pension granted to the family of the deceased officer "is allotted, for the support of the family, to the eldest surviving son; failing sons, to the eldest widow," and so on. The Comptroller has, in a similar case disposed of by Government in November 1905, contended that the substitution cannot be made, on the ground that the words " eldest surviving son" in the rule mean the son " surviving the father " and not the son "surviving the Government order ", and that the theory of the Rule is that Government substitutes one life for another lost on Government duty, and that the family has to take its

chance upon that life.

The Council is of opinion that this interpretation is neither accurate literally, nor in accordance with the spirit or intention of the rules, or with the analogy of the British Indian rules upon which they are based.

The wording of the rule is - "allotted to the eldest surviving son", meaning thereby the eldest son surviving his father at the time of the allotment. If the eldest son was dead at such time, it would be impossible to make any allotment at all.

The rules being intended for the benefit of the families of officers killed in the execution of their duties, to speak of leaving the family to take their chances upon a life in the selection of which they have had no voice, as if the matter was a lottery or speculation, seems to be to take an extremely narrow view of the spirit of the rules.

Lastly, the Rules in Chapter XXII of the Service Regulations are, as stated in the Note to Article 394, based upon the analogy of the Regulations for the grant of pensions to soldiers wounded and to the families of soldiers killed in action. The Regulations regarding Family Pensions are contained in the Army Regulations, India, Part II, paras 566 et seq. These also do not provide for a family pension being transferred to another member of the family on the demise of the heir to whom it may have been granted. But para 574 clearly shows that " in the event of the death of the nominated or nearest heir before being brought on the pension establishment, the next nearest or surviving heir, according to the established line of succession, shall be entitled to the pension". In other words, if before the allotment of the pension by Government, the nearest heir of the deceased is no longer alive, there is no objection to its being granted to the next surviving heir; but where the allotment has already been made in the name of a person living at the time of allotment, the transfer of the pension to another heir is no

longer permissible.

For these reasons, the Council is unable to agree with the views expressed by the Comptroller and accepted by Government in their Order No.Fl.3422-3/S.&A.180-05-2 dated the 29th November 1905.

Flag W.

The grantee of the pension not being in existence at the time the pension was sanctioned in January 1904, the grant should be deemed to have failed of effect; and it is not a question of a transfer of a pension, but one of the substitution for the name of a person, non-existent and incapable of benefiting by the grant, of that of another person not subject to this disability.

The pension in this case may, accordingly, be settled upon the petitioner, who is the widow of the deceased Police officer.

Sd/- V.P. Madhava Rao.
Dewan of Mysore.

" E x t r a c t "

Secretary to Government.

Submitted to His Highness.

One Sivaprasad, Lance Duffedar, Mysore City Police, having died of plague caught while in the execution of duty on the 4th October 1900, an extra-ordinary pension of Rs.3-5-4 was sanctioned in favor of his son in Proceedings No.1280, dated 7th January 1904. On the date of the order, however, the son was not alive, he having died on 3rd November 1902; but this fact was not known to Government at the time. Sivaprasad's widow Krishna Bai, now prays that the pension sanctioned by Government in favor of her son who was not alive at the time of the grant, may be sanctioned in her name.

In view of the opinion expressed by the Comptroller in a similar case that such substitution was not permissible (vide page 6 of the office note in file 180), which was acted upon by Government in Proceedings No.3422-3 dated 29th November 1905, the matter was carefully considered in Council. For reasons fully explained in the appended Council proceedings, the Council are unable to agree with the Comptroller's view, and are of the opinion that the

grantee of the pension not being in existence at the time of the grant, the pension should go to the next heir, viz., the widow of the deceased Lance Duffedar.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Prayer of Krishna Bai, widow of Siva-prasad, late Lance Sergeant, Mysore City Police, for the transfer to her name of the extraordinary pension granted by Government in the name of her son deceased at the time of the grant.

631

Order.

I agree with the Dewan & Councillors in their views

5.3.07
602

~~KRM~~
2/3/07

Dewan's order

Please issue orders accordingly

Bo.
CSB
5/3/07

(with 2 vols)

sta
only one Volume
has been used. Rest
to be given after
translation

Letter see draft
7/3/07

draft in accordance
with Council Resolve
16
2/3

G.R.S. 12]

General and Revenue Secretariat.

Sh. File No. 279 of 190 6-07

Serial No.	
	Draft ord together with a revised endorse-ment to the petitioner's Advt DMZ Please fair draft. 8/3/07
	18 9.3.07
	MK Fair draft and Wsey. DMZ 11-3-07
	18 11.3.07
	MK Done 18/3/07
2	To the Comptroller and the I.G. of Police No. H 7100-1 dt: 22-3-07. settles upon the petitioner the entry pension of Rs 3-5-4 p.m. each in the name of her son and directs that the said pension be paid to her for life or until remarriage with effect from the 5th Oct. 1900.
3	To Krishnabai No. H 7102 dt 22-3-07. Informs that Govt have been pleased to sanction to her an entry pension of Rs 3-5-4 per mensem for life or until remarriage with effect from the 5th Oct 1900.

NOTE—Contn. sheet

GPB—40,000—12-5-06

Received from the D.O.
11-10-06
P.L.

No 1573

(1)

J. 942

15/10/06

[illegible]

10 — 10 — 1906

G.R.S. 28]

Fair draft

File No. 27

Serial No. 2

Diary No. of letter replied to 1573

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.
(Sta.)

the 190

Date of issue

Signed by

READ.—again:—

Govt. Pro. No. Pta 1280/1 dated the 7th January 1904 sanctioning an extraordinary pension of Rs 3-5-4 per mensem in the name of Bhavani prasad son of Siva prasad late lance Sergeant of the Mysore city Police who died of plague contracted in the execution of duty

2. Petition Regd No. H/5 73 dated the 10th Octob 1906 from Krishna Boi widow of Siva prasad

over

ORDER THEREON.—~~No.~~

SUBJECT

praying that the entry pension
granted in the name of her
son may be transferred to
her name as the son had
died at the time of the grant

3. Govt Order No Fl 3422
Sta 180-05-2
d. the 29th November 1905
declining for reasons stated
to continue the entry pension
granted to the eldest son
of deceased Putta Police
Constable, Tumkur Taluk,
who had died prior to the
date of the Govt order.

Order thereon No Fl 7100 1 } 22-3-07
SA 27-06

In the Govt order
of 7th January 1904 read above,
an entry pension of Rs 3-5-4
per mensem, was sanctioned
for the benefit of the family
of the late Sivaprasad, in
favour of his eldest son
Bhavani prasad, with effect
from the 5th October 1900.

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

— the late ~~Subsequent to~~ stating that V his father's death — to continue till he shuld be 18 years' old. As a matter of fact, however, the Son was not alive at the time of the passing of the order, viz the 7th Jany 1904, he having died on the 3rd November 1902, — leaving his mother, the petitioner surviving him & ~~Mr~~ Mrs Carter now prays that the pension may be settled in her name instead.

2 — Under art: 403 (a) of the Mysore Service Regulns, a pension granted to the family of a deceased officer is allotted for the support of the family, to the eldest surviving Son; failing Sons, to the eldest widow for the same purpose and so on. In a similar case disposed of by Govt in accordance with the views of the late Comptroller ~~Mr Rees~~, in the order of 29th November 1905 read above, it was observed that the substitution could not be made,

on the ground that the words "eldest surviving son" in the rule mean the son "surviving the father" and not the son "surviving the Govt. order" and that the theory of the rule is that Govt. substitutes one life for another lost on Govt. duty and that the family has to take its chance upon that life. This interpretation, Govt. upon reconsideration, are not prepared to admit as being either accurate literally or in accordance with the spirit or intention of the rules, which are framed on the analogy of the British Indian rules for the grant of pensions to soldiers wounded and to the families of soldiers killed in action as contained in Army Regulations Part II para 566 et seq. These also do not provide for a family pension being transferred to another member of the family on the demise of the heir to whom it may have been granted. But para 574 of the said Army Regulations clearly provides that "in the event of the death of the nominated or nearest heir before being brought

in accordance with the rule contained in

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(*Continuation Sheet draft form.*)

er the pension establishment, the next nearest or surviving heir, according to the established line of succession, shall be entitled to the pension." In other words, if, ~~before~~ at the time of allotment of the pension by Garh, the nearest heir of the deceased is no longer alive, there is no objection to its being granted to the next surviving heir; but where the allotment has already been made in the name of a person living at the time of allotment, the transfer of the pension to another heir is no longer permissible.

3. The rules being intended for the benefit of the families of officers killed in the execution of their duties, ~~to speak of~~ ~~leaving~~ to leave the family "to take their chances" upon a life in the selection of which they have had no voice, ~~as if~~ ~~the matter were a sort of~~

it does not seem to me to be in accordance with the true spirit of the Rules.

MGCPB—30,000—5-4 05.

Speculation is to take an extremely narrow view of the spirit of the rules and does not commend itself to Govt as being an equitable one

4. The grantee of the pension not being in existence at the time the pension was sanctd in January 1904, the grant should be deemed to have failed of effect; and it is not a question of a transfer of a pension, but one of the substitution for the name of a person, non-existent and incapable of benefiting by the grant, of that of another person not subject to this disability

5. For these reasons Govt are pleased to settle upon the petitioner, who is the widow of the deceased police officer, the entire pension of Rs 3-5-4 pm sanctd in the name of her son and to direct that the said pension be paid to her for life or until remarriage with effect from the 5th October 1900.

Secretary 11.3.07

2. The Comptroller
The I. G. of Police in Mysore

G. R. S. No. (3) 2018

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE,
GENERAL AND REVENUE SECRETARIAT.

(FINANCIAL)

Dated Bangalore,

No. H 7102 / SA 279-06 the 22-3-1907

ENDORSEMENT GRANTED TO Krishnabai widow of Sivaprasad late Lance Sergeant of the Mysore city Police

in reply to her Petition Registered No. H 1573 dated the 10th

and stating that her son Bhavani prasad in whose name an extra pension was sanctd died two years before the receipt of the G.O sanctioning the pension and praying that as she is in destitute circs the pension amount in her son's name may be transferred to her name

Petitioner is informed that ~~her request is not admissible under the rules~~ granted.

that Govt have been pleased to sanction to her an extraordinary pension of Rs 3-8-4 per mensem for life ~~on~~ or ~~Bill~~ until remarriage with effect from the 5th Oct 1900

By Order,

9/8/07 for Secretary. 21/11/06

21-11-06

8/3/07 2nd cs 18/3/07

GPE—1,000—11-11-05.